

## CHAPTER 4 HEARINGS

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### 400 FILING OF A REQUEST FOR A HEARING

400.1 A request for a hearing shall be filed with the Executive Director within fifteen (15) business day after the receipt of written notice denying a claim or written notice denying, suspending, or revoking a lottery license.

400.2 Each request for a hearing shall contain the following:

- (a) The name, address and telephone number of the person filing the request;
- (b) The name, address and telephone number of the agent's representatives if any; and
- (c) A clear and concise statement of facts refuting the allegations of the Agency;

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is §4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, D.C. Law 3-172, D.C. Code §2-2501 *et seq.* (1994 Repl. Vol.).

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8680 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

### 401 HEARING EXAMINER

401.1 The Executive Director shall designate a hearing examiner to conduct the hearing and make proposed findings of fact and conclusions of law.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8680 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**402 APPEARANCE: REPRESENTATION**

402.1 Any person filing a request for a hearing may be represented by counsel or any other person as a representative.

402.2 On the first occasion of appearance, persons who appear in a representative capacity shall file a written notice of appearance.

402.3 The notice of appearance shall state the person's name, local address, and local telephone number.

402.4 The written notice of appearance shall be part of the record.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8680 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**403 PREHEARING CONFERENCES**

403.1 In any action, the parties or their representatives shall appear before the hearing examiner on a date set by the Executive Director for a conference to consider the following:

- (a) Whether a hearing is necessary;
- (b) Simplification of the issues;
- (c) The possibility of obtaining the admission and stipulation of facts and documents which will avoid unnecessary proof; and
- (d) Any other matters which may aid in the disposition of the action.

403.2 The hearing examiner shall enter an order which recites the action taken at the conference. The order, when entered, shall control the subsequent course of the action.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8680 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**404 TIME LIMITATIONS**

404.1 In computing any period of time under this title, unless otherwise stated, time shall be computed in calendar days with the following exceptions:

- (a) If the day of the act, event, or default after which the time period ends is a Saturday, Sunday, or legal holiday, the period shall run until the next day which is not a Saturday, Sunday, or legal holiday; and
- (b) When the time period is five (5) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation of time.

**404.2** Where good cause is shown and upon a written request, the Executive Director may order an extension of time if made prior to the expiration of the period prescribed.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8681 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**405 POWER TO ADMINISTER OATHS AND TAKE TESTIMONY: SUBPOENA POWER**

**405.1** In accordance with D.C. Code §2-2508 (1994 Repl. Vol.), the Board, any subcommittee, Executive Director or hearing examiner authorized to conduct any inquiry, investigation, or hearing, shall have the power to administer oaths, to take testimony under oath, subpoena witnesses and require production of records, papers, and documents relevant to the inquiry.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8681 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**406 FAILURE TO APPEAR FOR A HEARING**

**406.1** If a party to any proceeding under this chapter shall waive a hearing or, without sufficient reason, fail to appear at the time and place set for the hearing, the hearing examiner may proceed to hear the matter on the record.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**407 CONTINUANCES**

**407.1** A hearing scheduled before the hearing examiner may not be delayed by motion for a continuance unless the motion is made at least one (1) day prior to the scheduled hearing date and, in the opinion of the hearing examiner, sets forth good and sufficient cause for the continuance.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).



**408 TRANSCRIPT OF HEARING**

- 408.1 Hearing shall be recorded and transcribed under the direction of the hearing examiner.
- 408.2 Upon payment of reasonable cost, a transcript of the proceeding shall be supplied to interested parties.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**409 FINDING OF FACT AND CONCLUSIONS OF LAW**

- 409.1 Within a reasonable time after the close of a proceeding, the hearing examiner shall render a proposed written decision, accompanied by findings of fact, conclusions of law, and recommendations to the Executive Director and the Board.
- 409.2 In accordance with D.C. Code §1-1509(d) (1994 Repl. Vol.), if the recommendation of the hearing examiner is adverse to the person who filed the request for a hearing, the person may file exceptions and present arguments to the Executive Director and the Board. The Board shall make all final decisions on denial, revocation or suspension.
- 409.3 The Board shall issue a final order accompanied by findings of fact and conclusions of law.
- 409.4 Findings of fact shall consist of a concise statement of the Board's conclusions on each contested issue of fact, and shall be based solely upon evidence contained in the record.
- 409.5 Findings of fact and conclusions of law shall be supported by and in accordance with reliable, probative, and substantial evidence.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**410 MAINTENANCE OF DECORUM**

- 410.1 Decorum and good order shall be maintained at all times during any hearing.
- 410.2 Any person who refuses to comply with a reasonable order may be excluded from the hearing by the person conducting the hearing.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

**411 RIGHT TO APPEAL**

- 411.1 In accordance with the provisions of D.C. Code §1-1510 (1992 Repl. Vol.), any person denied a license or denied a prize by a final decision of the Agency following a hearing is entitled to a judicial review.
- 411.2 Any person whose license is revoked or suspended by the final decision of the Agency following a hearing shall have the right to appeal the decision to the Superior Court of the District of Columbia within the time fixed by rule of the Court.

**SOURCE:** Final Rulemaking published at 36 DCR 8665, 8682 (December 29, 1989).

**HISTORICAL NOTE:** Prior to December 29, 1989, the D.C. Charitable Games Control Board published Final Rulemaking at 29 DCR 2202, 2210 (May 28, 1992).

